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COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 35th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 20 February 1992, at 10 a.m.

Chairman: Mr. SOLT (Hungary)

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The meeting was called to order at 10.20 a.m.

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

1. The CHAIRMAN welcomed the United Nations High Commissioner for Refugees and invited her to address the Commission.

2. Mrs. OGATA (United Nations High Commissioner for Refugees) said that mass movements of people posed a major humanitarian challenge in all regions of the world. The refugee and migration pressures caused by political, economic, demographic and ecological trends called for strengthened multilateral cooperation to develop appropriate responses. The Commission on Human Rights clearly had a major role to play in fostering such multilateral cooperation.

3. For its part, UNHCR had seen its traditional role of protecting refugees evolve over the years and it was increasingly engaged in protecting and assisting victims of violence. In fact, the vast majority of refugees had left their countries because their lives, security or liberty were threatened by generalized violence, war or internal conflict. UNHCR was also being asked with increasing frequency to assume humanitarian responsibilities for persons displaced within their own countries.

4. There was a clear connection between the responsibilities of UNHCR and the Commission's expertise, since human rights formed the overall basis for the protection of and assistance to refugees and was the key to finding solutions for refugee problems. Moreover, human rights violations, combined with severe economic deprivation, usually lay at the root of the conflicts which were the prime cause of refugee flows. The challenge to the international community was to turn the recognition of that fact into a practical strategy.

5. With the increasing emphasis in the United Nations on preventive diplomacy, UNHCR should also focus on preventing the circumstances which forced people to leave their homes. Consequently, while not relinquishing its traditional protection role in countries of asylum, UNHCR was increasingly turning its attention to activities in the countries in which refugee flows originated. One of the greatest concerns of her Office was the growing prevalence of xenophobic and racist actions in many countries, which represented a profound political and human rights challenge to Governments and to the international community as a whole.

6. At the same time, many preventive strategies could and should be pursued before people began to flee. Such strategies included human rights monitoring by the international community, the provision of advisory services, the establishment of national or regional structures for protecting minority rights, the promotion of mediation as a means of conflict resolution, and encouraging tolerance for diversity and respect for human rights generally. Her Office was prepared to commit resources, particularly to monitoring and to promoting national legislative and administrative infrastructures which were solidly based on respect for human rights.

7. The success of preventive strategies would depend, in part, on the effectiveness of early warning of developing problems. In that regard, her Office was actively cooperating with the Organization's efforts to develop an early-warning mechanism incorporating appropriate follow-up procedures.

8. A new challenge for UNHCR was to devise methods to meet the security and protection needs of individuals prior to departure, so as to obviate the need for flight. Such in-country protection should be feasible, provided that it was fully consonant with international human rights standards, including the right of individuals to leave their own country, to seek and enjoy asylum or return on a voluntary basis and not be compelled to remain in a territory where life, liberty or physical integrity was threatened. In that respect, it might be of interest to evaluate the United Nations experience in Yugoslavia.

9. Turning to solutions, she believed that the Commission had a major role to play in assisting States and her Office to achieve the most feasible and preferable solution to refugee situations - that of voluntary repatriation. To return home in safety and dignity was the deep-seated and firm desire of the large majority of uprooted people. UNHCR was actively pursuing voluntary repatriation possibilities which had been opened up by the resolution of many regional and internal conflicts.

10. The role of the United Nations in monitoring the safety of returnees was, however, crucial, particularly when refugees returned to areas where security was still fragile, as in northern Iraq. On occasion, repatriated communities had been the object of direct aggression by military forces and the Commission should seek to complement the efforts of UNHCR to promote the dignity and safety of returnees.

11. Linked to the problem of returning refugees was the situation of those who were internally displaced. The work of her Office with returnees had clearly shown the substantial commonality of protection problems experienced by repatriated refugees and the internally displaced. That experience had shown that the protection of internally displaced persons was a key factor in the prevention of refugee flows and in ensuring the durability of voluntary repatriation and the reintegration of the returnees.

12. She thus hoped that the Commission would agree on an appropriate follow-up mechanism to enhance the protection of the internally displaced. In that context, there was need to examine how to structure a mandate for international protection of and assistance to the victims, how to ensure humanitarian access to those in need, without ignoring the issue of sovereignty, and how to protect aid workers so that the task of saving lives did not have to wait for political resolution of a conflict.

13. Another area where there was scope for establishing a meaningful relationship between UNHCR and the Commission was in regard to the problems of minorities. The Commission had long been concerned with minorities, many of whom were displaced by conflict, and had made great strides in protecting their human rights. In that connection, the draft declaration on the rights of minority groups was an encouraging development in the process of

standard-setting. In fact, the problems of minorities were at the heart of many forced movements of populations and must be addressed if such flows were to be averted in future.

14. Reliable information on situations which caused population movements was also vital for the work of United Nations bodies. Towards that end, all special rapporteurs and working groups of the Commission could be requested to focus to some extent on circumstances that created refugee flows. The Commission might also wish to consider whether its existing mechanisms in that field were adequate or whether a more direct focus on refugee-generating situations would be desirable through the establishment of a specialized reporting mechanism.

15. Similarly, the Commission could encourage human rights treaty bodies to include in their evaluation process examination of human rights violations causing persons to become refugees or to be displaced or preventing their return. In considering specific country situations under agenda item 12, members of the Commission might also choose to highlight situations which produced flows of refugees and displaced persons or which prevented their return home.

16. In the area of standard-setting, acknowledgement by the Commission of the customary and binding nature of the international legal principle of non-refoulement would be a valuable expression of international solidarity and understanding. The Commission could also supplement the efforts of her Office to encourage States to accede to the Convention Relating to the Status of Refugees and the Protocol Relating to the Status of Refugees. In addition, it might also consider the possibility of including in its agenda a new item which would allow a more thorough and focused examination of human rights violations and population displacements. In that connection, her Office planned to institutionalize the preparation of a regular report on the state of the world's refugees.

17. The Commission might also wish to consider how refugees and displaced persons might be put on the agenda of the 1993 World Conference on Human Rights. UNHCR took the view that such issues as the right to freedom of movement and the right to a nationality should be included in that agenda. It also suggested, that the World Conference should reflect on the topic of human rights and mass exoduses, particularly with regard to the responsibilities of countries from which people were forced to flee.

18. Lastly, non-governmental organizations had an indispensable role to play in preventing and resolving refugee problems. UNHCR relied on the cooperation of the NGOs in many different ways and would continue to explore new modes of such cooperation, particularly with regard to solution- and prevention-oriented activities.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(b) SITUATION OF HUMAN RIGHTS IN OCCUPIED KUWAIT
(agenda item 12) (continued) (E/CN.4/1992/3, 4, 25, 26, 27 and Corr.1, 28 and Add.1, 29, 30 and Add.1, 31, 32, 34-37, 60, 64, 67 and 68; E/CN.4/1992/CRP.1; E/CN.4/1992/NGO/2, 5, 10, 13, 19, 24 and 34; E/CN.4/1991/24, 27-31, 33 and Add.1, and 34-36; A/46/446, 529, 542, 544 and Corr.1, 606 and 647)

19. Mr. van der STOEL (Special Rapporteur on the situation of human rights in Iraq) said that all the information he had collected as the Commission's Special Rapporteur confirmed the judgement reflected in the Commission's resolution adopted on 6 March 1991 expressing its grave concern at flagrant violations of human rights by the Government of Iraq. Summary executions and the arbitrary detention of political and religious opponents of the regime had been practised throughout the 1980s, and were continuing on a large scale. Enforced or involuntary disappearances occurred frequently, and torture was still being used to extract confessions.

20. It was difficult to estimate the number of persons who had disappeared in Iraq during the past decade. He had so far been supplied with more than 17,000 names, and that number was likely to increase considerably in the months to come as further information was received. Since many people were unable to provide information about relatives and friends who had disappeared, or did not dare to do so, it was no exaggeration to say that many tens of thousands of people had disappeared, and the Kurds in Iraq alone put the number of people they had lost through disappearances at around 180,000. While that figure might seem wildly exaggerated, it was becoming less and less unrealistic.

21. There was still greater reason for alarm regarding disappearances in Iraq in that, even though the Working Group on Enforced or Involuntary Disappearances had transmitted details of 3,874 individual cases to the Government of Iraq, the Government had seen fit to respond to a mere 206 cases, and had clarified only 70 of them. His own report (E/CN.4/1992/31) also proved that, over the past decade, there had been frequent summary executions, often on a large scale.

22. There was particularly shocking evidence to indicate that thousands of Kurdish and Assyrian villages had been destroyed and that, in the years preceding the Gulf conflict, such villages had been subjected to chemical attacks.

23. Other elements of the population had also been subjected to measures of repression, and his report included references to persecution of the Turkomans. There had also been disturbing accounts of violations of the human rights of the Shi'as, and particularly of their right to practise their religion. The Government had been waging a concerted attack against the Shi'a clergy, whose numbers had been reduced from eight to nine thousand 20 years previously to some 800 before the uprisings of 1991. It was alleged that

virtually all of them were currently under arrest or had disappeared, as the Government sought to destroy Shi'a culture by wiping out its traditional leaders.

24. Massive evidence was available concerning the widespread use of torture, often in its most cruel forms. Travelling in his capacity as Special Rapporteur, he had talked to many persons who had themselves suffered from such practices and photographic evidence was in his possession.

25. He had therefore concluded that, apart from privileged groups such as the members of the ruling Baath party or the security forces, all sections of the Iraqi population had been subjected to severe repressive measures. When visiting Iraq in January 1992, he had hoped to detect signs that the Government was taking practical steps towards an improvement of the human rights situation, but he had regretfully concluded that so far no evidence of such progress was forthcoming.

26. The Government of Iraq had repeatedly stated that human rights had been adversely affected by the abnormal circumstances facing the country. That called for three comments. Firstly, by making such an assertion, the Government implicitly recognized that the human rights situation in the country was not as it should be. Secondly, abnormal circumstances could never justify what tens of thousands of Iraqi citizens had had to suffer, namely, arbitrary punishment and execution, chemical attacks and torture. Finally, it was evident from his conversation with the Deputy Prime Minister that the latter felt that special circumstances still prevailed, notwithstanding the end of the Gulf conflict. In other words, the Iraqi Government felt that its current policy concerning human rights must be continued, at least until solutions had been found to the problems of the Kurds and of the embargo. Since Kurds were being asked to accept the restoration of the rule of the security forces on the territory they currently controlled, and since Iraq had recently broken off the negotiations on a "food for oil" formula, the prospects for progress on both those issues seemed to be very remote.

27. Even if the embargo were lifted and a mutually acceptable formula for Kurdish autonomy found, the fundamental problem remained that the entire structure of the State was subordinated to one aim, namely, to secure the unrestricted rule of the Baath party and its leader, Saddam Hussein. All real power was vested in the hands of the Revolution Command Council, of which Saddam Hussein was also President. The Council, which could issue decrees with the force of law, had absolute control over the security apparatus, which often exceeded its mandate. Only if radical changes were made in that system could human rights be restored in Iraq.

28. The Commission must also consider the mentality of the current rulers of Iraq, who made no secret of their determination to be ruthless if they felt that ruthlessness were required. That had become evident from statements made by the Deputy Prime Minister in a conversation with the Special Rapporteur and by the Minister of Defence in a recorded conversation whose authenticity had been confirmed.

29. It was against the background of such ruthlessness that the Special Rapporteur felt bound to express his great concern about the situation in the southern marshes, where strong Iraqi forces were concentrated with a view to subduing those still opposing the central Government. It was to be hoped that some kind of permanent United Nations presence could be established in the area to reduce the danger of a further blood bath.

30. While his criticism of the Iraqi regime was undoubtedly severe, he assured the members of the Commission that he had been extremely careful in assembling his evidence, and had rejected some of it on the grounds that he did not feel sufficiently confident of its reliability. He had also been careful to use the international human rights instruments to which Iraq itself was a party as the sole criterion for the admissibility of evidence.

31. In its answers to his questions, the Government of Iraq had stressed the importance of the various amnesties it had decreed, but their significance remained restricted inasmuch as the system of arbitrary arrests of persons distrusted by the security services continued. Nor was there any reason to see the new Political Parties Act as a step towards liberalization: the restrictions on any new party were such that it could survive only as a satellite of the Baath party.

32. In its reply, the Government of Iraq continued to argue that many allegations were not sufficiently specific to justify investigations by the authorities. That argument was unconvincing, since the circumstances in which human rights violations occurred were often such that potentially relevant information could not be collected by the victim. Secondly, he had often been able to provide enough information to enable the Iraqi authorities to begin an investigation and had no hesitation in saying that each of his conclusions had a firm basis of evidence.

33. In his report, he had made a number of concrete recommendations concerning steps to improve the human rights situation in Iraq which he hoped the Commission would urge the Government of Iraq to accept. It would be a major step forward if dialogue could be established with the Iraqi Government regarding their implementation. He also recommended a step which, to his knowledge, no Special Rapporteur had previously recommended, namely, the sending to Iraq of a team of human rights monitors. An exceptional measure of that kind could be justified only in a human rights situation of exceptional gravity such as that prevailing in Iraq: Iraqi citizens were in daily danger of losing their lives and mere condemnations were not enough.

34. If the Government of Iraq could be persuaded to accept the monitors on the terms described in the final chapter of the report, some protection might be afforded to the thousands who were currently in constant danger. It might also be a first indication that the Government was willing to reconsider its human rights policy. If, on the other hand, it were to refuse to accept the monitors, that would have to be considered as a clear indication that the existing policy of repression would continue unabated. The question would then arise whether the continuation of such massive and flagrant violations of the various human rights conventions to which Iraq was a party did not constitute a clear refusal to implement Security Council resolution 688 (1991). That, however, was a question for the Security Council itself to decide.

35. Finally, he expressed the hope that the Iraqi Government would reply to a number of important questions which he had submitted and to which no answer had been given to date. He also hoped that those answers would be such as to pave the way for an intensified dialogue on the human rights situation in Iraq.

36. Mr. ERMACORA (Special Rapporteur on the situation of human rights in Afghanistan), introducing his eighth report (E/CN.4/1991/33), said that, like its predecessors, the report resulted from visits he had made regularly to Pakistan since 1984 and to both Pakistan and Afghanistan since 1987. He expressed his gratitude to the Governments concerned, and to that of the Islamic Republic of Iran, for their full cooperation over the years.

37. The human rights situation in Afghanistan remained complex, although three years had already elapsed since the complete withdrawal of Soviet troops. It derived from the situation of armed conflict, the problem of refugees, and the different circumstances prevailing in areas controlled by the Government and in those which were not under government control. The complexity of the situation was evident from the fact that the fate of more than 47,000 people who had been reported as missing had not so far been clarified.

38. There seemed to be a general trend towards finding a political solution to the long-standing conflict in Afghanistan and, in his report, he had mentioned a number of initiatives which had that solution as their objective, including the meetings between the leaders of the Afghan opposition and representatives of the Soviet Union and the Russian Federation, and the visit of representatives of the Russian Federation to the authorities in Pakistan. All the statements issued after those meetings contained elements relating to human rights, although the restoration of human rights was not their main focus. He was therefore of the opinion that human rights should be a matter of general concern in all discussions about a political solution.

39. In the course of his visit to Afghanistan in January 1992, he had raised with the President of the Republic the question of the death sentences imposed on 97 persons allegedly involved in the attempted coup d'état of March 1990. In its resolution 46/136 the General Assembly had called for commutation of the death sentences, an appeal which the Special Rapporteur had reiterated. In response to those appeals, the President had commuted all pending death sentences - a total of 114 - to 20 years' imprisonment.

40. On the same occasion, he had appealed for the release of a political prisoner who had been arrested 10 years previously: the President had promptly consented to the release, which the Special Rapporteur had been happy to witness in person later the same day. It was evident from such gestures of clemency that the President exercised wide discretion in respect of human rights.

41. There were still more than 5.5 million Afghan refugees who had not yet returned home. Indeed, the number of returnees was negligible in comparison with the number of those still living in Pakistan and Iran. The funds allocated for refugees living in refugee camps were insufficient to guarantee them a decent life, and one result of the decrease in international assistance had been a reduction in rations. Women and children in particular were the

victims of such a situation. The Government of Pakistan had indicated what was required to remedy the situation, and the Office for the Coordination of United Nations Humanitarian and Economic Assistance Programmes relating to Afghanistan had also referred to the matter in its reports.

42. Within Afghanistan, returnees from Iran could not be transported to their places of origin owing to a lack of transport facilities. Although refugee problems did not fall directly within the scope of human rights and were therefore not a principal concern of the Commission, the fate of the refugees themselves was a human rights problem.

43. There were a number of reasons why there had not been a massive return of refugees to the country, namely: the unrest prevailing in areas not controlled by the Government; the armed clashes occurring between opposition groups, resulting in numerous casualties; the impossibility of commencing reconstruction work on destroyed villages and dwellings, due to the uncertainty caused by continuing hostilities; the unresolved problem of mines; and, finally, the alleged conviction that the refugees would return only when a genuine Islamic Government was established in Afghanistan.

44. The situation in areas under government control (Kabul and most of the provincial capitals) was characterized by a functioning administration and a general prevalence of law and order. However, the existence of political prisoners showed that the pluralism proclaimed by the Constitution was not easy to achieve in practice. Political activity was still hazardous, and while it might be true that more than 20,000 prisoners had been released since the beginning of the national reconciliation policy, those releases had been balanced by new arrests.

45. The intervention of the United Nations and the affirmation by the Government that it adhered to the standards enshrined in international human rights instruments had led to a significant modification of the judicial system, and a law unifying the system of courts and attorneys and abolishing the system of revolutionary and special courts had been introduced in March 1991. While that development was to be welcomed, tribunals dealing with the internal and external security of the State continued to exist. He hoped that the establishment of the new judicial system would yield concrete results.

46. The regular visits paid by the International Committee of the Red Cross (ICRC) and the Special Rapporteur had prompted the Government to improve prison conditions. However, reports indicated a number of shortcomings, and a commission to supervise the situation of prisoners had been set up to examine their complaints and petitions. His report dwelt on that issue in greater detail.

47. Allegations concerning torture and ill-treatment continued to be made and he hoped that the work carried out by the commission he had just mentioned, together with the regular visits of the ICRC, would contribute to greater control of interrogation practices.

48. He was also concerned about the situation of prisoners held by opposition forces, although he was unaware of their exact number or their places of detention. Neither he nor ICRC had had systematic or regular access to all such prisoners and he himself had been able to visit only those prisoners who were high-ranking officers in the Afghan army.

49. Concern also existed regarding former Soviet military personnel held by opposition forces, who should be released and repatriated in accordance with article 118 of the Third Geneva Convention. He had offered to help coordinate the release of prisoners, since the attempts to achieve their release appeared rather uncoordinated. In that regard, a general amnesty by all sides would be an important contribution to the peace process.

50. As for the enjoyment in Afghanistan of economic, social and cultural rights, the Committee on Economic, Social and Cultural Rights had expressed satisfaction with the way in which those rights were codified in Afghan law. However, their actual implementation depended mainly on the war situation. It was his impression that those rights were enjoyed to a greater extent in Government-controlled areas than in areas controlled by opposition forces, where only United Nations agencies and non-governmental organizations were able to provide the population with the necessary supplies.

51. Given the diversity of the factors involved in the situation in Afghanistan, only a political solution to the conflict could provide a basis for the exercise of the right to self-determination of the Afghan people. There were signs that such a solution might be possible. The Governments of a number of countries, such as Pakistan, had expressed their support for a political discussion. While aware of the difficulties of bringing all the parties involved in the conflict to the same negotiating table, he was hopeful that the restoration of human rights would be on the agenda of the political discussion. A political solution required the support of world public opinion which should be committed to the cause of human rights, to universal elections in Afghanistan, and to the creation of conditions conducive to the return of the refugees.

52. It was for the Commission to decide when the time had come to relinquish the monitoring of human rights in Afghanistan to the domain of the internal affairs of the country and its Government. For the time being, however, cooperation between the Government, opposition forces, the United Nations and non-governmental organizations was still necessary in order to pave the way for peace in Afghanistan.

53. Mr. MAUTNER-MARKHOF (Secretary of the Commission) read out the introduction to his report on the human rights situation in the Islamic Republic of Iran (E/CN.4/1992/34) prepared by the Commission's Special Representative who was unable to be present.

54. The report focused on the most important events of 1991. Once again, a discrepancy had been noted between Iranian legislation and international human rights standards. It was for the Iranian authorities to bring their legislation into line with international standards. The obligations contained in the Charter of the United Nations and in the international human rights instruments were universal.

55. The report discussed a number of problems encountered during the Special Rapporteur's latest visit, in particular with regard to interviews with prisoners in Evin prison and the refusal to take part in interviews that would have been held in the presence of the authorities or restriced to prearranged subjects.

56. As for the two new topics in the Special Representative's mandate, namely, the question of refugees and displaced persons and the victims of chemical weapons, the recommendations of the report included a call for the Government to cooperate in providing legal protection to all refugee groups. With regard to the victims of chemical weapons, the report pointed out that the prohibition of the use of chemical weapons had become a rule of jus cogens; it therefore bound all States without exception and was not restricted to the States parties to the Geneva Protocol of 1925.

57. The Government of the Islamic Republic of Iran had implemented the Special Representative's earlier recommendation to conclude an agreement with the International Committee of the Red Cross (ICRC) so that prison visits could be carried out regularly and without exception. Expressing the hope that such visits would be conducted smoothly, the report recalled that States could not cancel unilaterally obligations that constituted part of international monitoring of human rights. The interruption of the monitoring activity by the ICRC or the unilateral repudiation of the agreement would constitute a violation of the Commission's agreements on the international monitoring of human rights and could prompt the Commission to renew its consideration of the subject.

58. Concerning the guarantees for due process of law, official information had been received on various draft laws, but they had not yet been promulgated and implemented. The assistance of a defence lawyer did not emerge clearly in the relevant legislation, and the Special Rapporteur was not aware of any bill to ensure the assistance of a defence lawyer during pre-trial proceedings. Six prisoners detained for seven months in solitary confinement Gohardasht prison, several accused persons held for common crimes and others arrested for espionage and political offences had not benefited from the assistance of a defence lawyer.

59. No changes had been noted with regard to the authorization of independent associations and real political parties or freedom of expression. Many citizens continued to feel threatened when they took a public stand on an issue and therefore preferred to withdraw from public life. The fear of what might happen, the uncertainty over the reaction of the police authorities and the announcement of hundreds of executions and arrests were deterrents to any independent public activity and thus constituted a restriction on the right to freedom of expression and creativity.

60. The number of executions had increased considerably, and more persons had been executed in 1991 than in the two previous years. Such information could not be regarded as partial or fabricated, because it had been carefully collected and verified on the basis of reports contained in the Iranian press. The number of executions had been growing by the week.

61. In view of the above, it could be concluded that the situation of human rights and fundamental freedoms in the Islamic Republic of Iran had not made real progress in 1991. It was to be hoped that the statements of intent concerning the elaboration of legislative reforms would be followed up. Until then, the Commission should continue to monitor the situation, and the Government of the Islamic Republic of Iran should once again be urgently called upon to implement the 15 recommendations contained in his previous report and to comply with international human rights standards.

62. Mr. AL-DOURI (Iraq) said he regretted that, so far, his delegation had received the report on the situation of human rights in Iraq (E/CN.4/1992/31) in English only.

63. In his statement to the Commission, the Special Rapporteur had misquoted Mr. Tariq Aziz, the Deputy Prime Minister of Iraq, as saying that he did not need to apologize for the hanging of a number of Muslim clerics. That was a distorted quote taken out of context, and the Special Rapporteur should refer to the full statement, in which Mr. Aziz had said that the laws applied to all, regardless of status, even if the persons concerned were clerics.

64. Turning to the report, he said that it was one-sided and that the allegations made therein were unsubstantiated. As the information contained in the report had not been forwarded to his Government, his delegation was seeing it for the first time. The assessment made by the Special Rapporteur was based on a very short visit.

65. Most of the information had been obtained from well-known opposition elements either outside Iraq or in the area of Kurdish self-rule, or even from refugees in Saudi Arabia or Iran. No effort had been made to examine the veracity of the information received. No mention had been made of the Special Rapporteur's numerous meetings with Iraqi officials, nor did the report refer to the cooperation shown the Special Rapporteur by Iraqi authorities during his visit or state that he had been allowed to go wherever he pleased.

66. The report's conclusions were in keeping with the political campaign of certain major Powers which were seeking to achieve through other means what they had been unable to attain through war, aggression and economic embargo. His delegation strongly rejected the report and its recommendations and conclusions.

67. The Special Raporteur had failed to address the situation in Iraq since the military aggression and the disturbances. Yet in the interim, stability and the rule of law had been restored and prisoners had been released, except for those who had committed murder or other serious crimes. The disturbances in northern and southern Iraq, which had been fomented in part from abroad, had led to flagrant human rights violations and the elements responsible for the disturbances had committed more than 5,000 murders of innocent persons and countless acts of terrorism and torture. That matter had been ignored by the Special Rapporteur, although his Government had provided a list of the persons killed.

68. The only reference made by the Special Rapporteur to the economic sanctions levied against Iraq was to assert that the Government of Iraq was exploiting the situation to justify human rights violations. It was hard to understand how anyone could fail to see the impact that the sanctions were having on economic, social, civil and political rights in Iraq. In paragraph 82 of the report, the Special Rapporteur gave expression to his own personal interpretation of "sovereignty", which had no relationship to the definition of that concept under international law. It was a principle of international law that any attack on the sovereignty of the State was a violation of human rights.

69. Concerning paragraphs 109-117 of the report, on the Assyrians and Turkomans, that matter had never been raised with his Government. The issue of property rights had already been settled, and there had been no need to address it in the report. The question of minorities was receiving due attention in Iraq.

70. With regard to paragraphs 96-108, on the Kurds, his delegation drew attention to the improbable figures given for the persons displaced. The number of homes, hospitals, schools and mosques allegedly destroyed exceeded the number of such structures in many developed countries.

71. As to paragraphs 118-127, the Special Rapporteur had made a flagrant error in asserting that the Shi'as of southern Iraq were the descendants of the original population of Mesopotamia (para. 118). In fact, the various ethnic groups in northern, southern and central Iraq were of the same origin: they were all Muslims, whether Shi'as or Sunnis. In another error, the Special Rapporteur had spoken of the Shi'as as if they were part of an independent religion and culture. In actual fact, the Shi'as and the Sunnis were very close and were all Arabs and Muslims. That was a basic tenet of the Baath Party, which had been accused of violating the rights of persons of the Shi'a faith, even though many members of the party were Shi'as and supported national unity.

72. As to the question of refugees (paras. 133-136), the reason for that tragedy was to be sought in the Iran-Iraq war, the attack carried out against Iraq by the Atlantic alliance and the subsequent disturbances and unrest. Therefore, his Government could not be held responsible for the refugee problem. It was ready to welcome all refugees back to Iraq, especially persons who had been living in terrible conditions outside Iraq, many of whom had recounted incredible stories upon their return.

73. Mr. de SANTA-CLARA (Portugal), speaking on behalf of the European Community and its member States, said that human rights as expressed in the Universal Declaration of Human Rights and other instruments were not the monopoly of any one culture, society or age. However, the indivisibility and interrelationship of all human rights was an essential feature of the times. The tensions and conflicts arising from flagrant and systematic violations of human rights and fundamental freedoms in a country or a region were often also a threat to international peace and security and the promotion and safeguard of human rights and fundamental freedoms throughout the world was thus a legitimate and permanent duty of the world community and of all States, whether acting individually or collectively.

74. The Commission on Human Rights had the duty to act to halt violations of human rights wherever they occurred and to give hope to those being denied the basic human rights inherent in human dignity. In that context, the Austrian initiative, which would provide the Commission with a mechanism to react effectively to urgent situations of gross violations of human rights, was to be welcomed. So also was the excellent report on summary or arbitrary executions presented by the Commission's Special Rapporteur (E/CN.4/1992/30). The European Community supported the renewal of the mandate of the Special Rapporteur for another three years and the appointment of a successor to Mr. Wako.

75. In the firm conviction that criticism would help those striving for the respect of human rights and fundamental freedoms, he intended, on behalf of the European Community and its member States, to comment on certain situations of human rights violations throughout the world.

76. The European Community was fully aware of the permanent necessity to reinforce the protection of human rights and fundamental freedoms within its own societies, specifically in the areas of intolerance and discrimination. It remained fully committed to the constant improvement of human rights policies, both on a national basis and in the framework of regional mechanisms, with particular reference to the European Court of Human Rights and the mechanism established in the framework of the Conference on Security and Cooperation in Europe.

77. The European Community deplored the atrocities and the loss of human lives caused by the conflict in Yugoslavia and welcomed recent moves within the United Nations framework to bring about a peaceful solution. Although there had been positive developments recently in Romania, further guarantees concerning the democratization process and in the field of human rights were necessary.

78. The Government of Albania had made some progress with regard to human rights and democratization, but the European Community noted with concern recent measures preventing ethnic minorities from participating in the national general elections. The question of internally displaced persons as well as that of the reintegration of former political detainees should be solved urgently and all the human rights of persons belonging to minorities should be respected.

79. The European Community regretted the continuing and tragic division of Cyprus, and reiterated its support for the restoration of the unity, independence, sovereignty and territorial integrity of that country, in accordance with the relevant United Nations resolutions. It was to be hoped that the energetic approach by the Secretary-General of the United Nations in his good-offices mission would remove the remaining obstacles to the convening of a high-level international meeting on Cyprus under United Nations auspices.

80. The European Community had noted with concern the findings of the Committee Against Torture with regard to Turkey. However, it welcomed the

commitment of the newly elected Turkish coalition Government to improve the protection of human rights and the situation of minorities in Turkey as soon as possible.

81. The European Community welcomed the recent signature in Mexico of the Peace Agreements between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (FMLN) which had put an end to a conflict that had affected that country for so many years. It was to be hoped that that development would also contribute positively to the stability of the region. It endorsed the conclusions and recommendations of the Commission's Special Representative on the situation of human rights in El Salvador (E/CN.4/1991/34), especially those concerning the need to prevent the intimidation of the civilian population; to encourage the reform of the judiciary and the establishment of a fact-finding body subordinate to the judiciary to investigate criminal acts; and to implement the agrarian reform plan.

82. It was to be hoped that the remaining questions concerning the identity of all those responsible for the murder of the six Jesuit priests and their two assistants would be resolved so that they could be brought to justice at an early date. In such circumstances, it would be premature to terminate the mandate of the Special Representative. It was necessary to maintain the mechanism to follow up the human rights situation in El Salvador for some time to come.

83. The human rights situation in Guatemala was still a matter for deep concern. The efforts of the Government and its pledge to persuade the armed forces to cooperate in eradicating the death squads and ending the violence of the paramilitary groups had so far proved insufficient. While the number of grave violations had somewhat diminished, there were still reports of disappearances, of summary and arbitrary executions and of assassinations of street children.

84. The reforms carried out to date by the Government of Guatemala were to be welcomed and its endeavours should continue until the supremacy of civilian power and the strengthening of the judicial system were securely established. None the less, all those reforms, declarations of principle and various measures had not yet been reflected in any significant improvement in the human rights situation in Guatemala.

85. The European Community condemned, as it had in the past, any act of violence, whoever the authors might be, aimed at intimidating the indigenous civilian population and certain labour and trade-union sectors. As long as the human rights situation in Guatemala did not improve, the issue should continue to be addressed under item 12 of the Commission's agenda.

86. The human rights situation in Cuba remained troubling, particularly in the light of the decision by the Government of that country not to cooperate with the Special Representative in the performance of his mission. There were clear indications of growing intolerance, as revealed by repressive measures which reflected the absence of basic democratic guarantees such as the right to political participation and the freedoms of expression and association.

87. The European Community had condemned the coup d'état in Haiti and called for the restoration of the constitutional order and the return to power of the legally elected President through a process under the supervision of the United Nations. It welcomed the initiatives taken by the General Assembly and the Organization of American States in order to find a solution to the crisis. The Commission should consider the situation of human rights in Haiti as a matter of high priority, in view of the growing violations of human rights which had followed the coup d'état.

88. Although some positive developments had recently occurred, the human rights situation in Peru remained a matter for concern. Whilst the atrocities carried out by terrorist organizations there were to be strongly condemned, the European Community also urged the Peruvian Government to protect human rights in a more effective way.

89. The recent signature of an agreement at Yamoussoukro was a positive step towards the resolution of the Liberian conflict. Unfortunately, some regrettable violations of human rights continued to occur and there was still fighting in the border regions of Liberia and Sierra Leone, which jeopardized the peace agreement.

90. The charter governing the transitional period in Ethiopia clearly stated the Government's obligation to respect human rights and democracy. However, while the Government seemed determined to respect its commitments in that regard, there had regrettably been ethnic clashes and outbreaks of fighting in some parts of Ethiopia. The provisional Government of Eritrea had opted for a one-party system to be succeeded by a democracy and a multiparty system, after the referendum on the final status of Eritrea had been held. The European Community believed that the referendum should itself be conducted in accordance with democratic principles.

91. The situation in Somalia remained a tragic one with a heavy loss of human lives and widespread material damage. Many initiatives had been taken for national reconciliation and talks had been held in New York under the auspices of the Secretary-General of the United Nations. An early resolution of the conflict was to be hoped for.

92. The human rights situation in Sudan was deeply disturbing. There were continuing reports of imprisonment without trial, of ill-treatment, of torture of detainees and of the forced resettlement of displaced persons and refugees in Sudan. The European Community had frequently made it clear to the Government of the Sudan that its policy towards displaced persons should fully respect their human rights and fundamental freedoms.

93. The situation in Zaire was critical. The unilateral suspension by the Zairean authorities of the National Conference was to be deplored, as was the recent brutal suppression by regular governmental forces of a peaceful demonstration. The European Community urged the Zairean political forces to set the proper conditions for a genuine democratic change which would respect normal democratic institutions, the rule of law, civil and political rights and the legitimate aspirations of the people. It looked forward to studying the report of the Special Rapporteur on the events in Lubumbashi (E/CN.4/1992/30/Add.1).

94. There were shortcomings in the human rights records of Malawi and Chad. In Malawi, political prisoners were still being detained without trial. Despite positive changes proposed by the new Head of State of Chad in December 1990, which had led to the release of substantial numbers of political prisoners, the situation appeared to have subsequently deteriorated. The European Community deplored the recent murder of the Vice-President of the Human Rights League of Chad and called for the release of all remaining political prisoners and full respect for human rights in that country. It was also concerned about the treatment of ethnic groups by the Governments of Mali and Niger and the indiscriminate use of force by the parties concerned. It called upon all those parties to continue the process of national reconciliation.

95. Democracy and full respect for human rights were still subject to grave violations in Equatorial Guinea. Recent repressive measures taken by the Government seemed to indicate that it had no intention of implementing the recommendations made by the Commission's Expert (E/CN.4/1992/51) whose work the European Community commended.

96. With regard to the human rights situations in South Africa and the territories occupied by Israel since 1967, the European Community had already explained its position under agenda items 4 and 5. It should be reiterated once again, however, that respect for human rights in the occupied territories was still of great concern to the Community.

97. The Government of Syria should fully implement its obligations in the human rights field, particularly with regard to the situation of members of the Jewish community and other minorities, a situation which did not conform to internationally recognized standards of human rights.

98. It was to be hoped that the full implementation of the Taif Agreement would finally lead to the restoration of the sovereignty, independence, unity and territorial integrity of Lebanon and put an end to the long and terrible suffering of its population. In that context, the European Community urged Israel to implement Security Council resolution 45/1978. The progress in the release of hostages had been noted with satisfaction by the Community which demanded that the remaining hostages be released immediately and unconditionally and that that odious practice be once and for all terminated.

99. The report of the Commission's Special Rapporteur (E/CN.4/1992/31) gave ample evidence of the flagrant and persistent violations of human rights by the Government of Iraq and, in particular, of the massive repression of the Kurds and the Shi'ite community. The European Community demanded that the Government of Iraq put an end to the repression of the civilian population throughout the country and emphasized that that Government bore the entire responsibility for the deterioration in the humanitarian situation in its country. Early implementation of the relevant Security Council resolutions would contribute to improving the living conditions of the civilian population there.

100. The Commission's Special Rapporteur on occupied Kuwait had provided an insight into the extent of the cruelty of the Iraqi forces there. His report (E/CN.4/1992/26) focused in particular on the question of missing persons,

which was of the utmost concern to the European Community. In its dialogue with the Government of Kuwait, the European Community and its member States had made clear its concerns about the human rights situation in that country and had emphasized that everyone had the right to a fair trial whatever the charges brought against him or her. It had also expressed on several occasions its concern on the subject of deportations. Recent improvements in the human rights situation in Kuwait were nevertheless encouraging.

101. The European Community would continue to use its dialogue with China to express its deep concern about the human rights situation in that country. That could not be considered to be interference in the internal affairs of another State and was a legitimate subject of international concern. It was dismayed at the arrests and severe sentences imposed on those involved peacefully in the 1989 events and by the arrests of other Chinese citizens committed to democracy or holding particular religious beliefs. It appealed to the Chinese authorities to grant a general amnesty to all political activists, including all political prisoners and to guarantee respect for human rights, in Tibet also, in accordance with their international obligations.

102. The armed conflict, which continued in Afghanistan despite the agreement to end weapon deliveries to the Afghan parties concerned, had exacerbated the human rights situation in that country. However, the decision of the Afghan authorities to allow the International Committee of the Red Cross to visit political prisoners under interrogation was to be welcomed and it was to be hoped that the ICRC would be given access to all political prisoners. The proposed gathering of representatives of all the parties to the conflict under the auspices of the Secretary-General of the United Nations gave hope that ways and means might be found to start a dialogue aimed at achieving a democratic political solution of the conflict.

103. Likewise, the agreement on a comprehensive political settlement to the conflict in Cambodia was to be welcomed. The European Community looked forward to the beginning of the process towards free and fair elections under the auspices of the United Nations and welcomed the steps taken to release political prisoners under the supervision of the ICRC. In accordance with the Paris Agreement, the Commission on Human Rights should continue to monitor closely the human rights situation in Cambodia.

104. Almost two years after the holding of elections in Burma, the regime still showed no sign of respecting the democratically expressed will of the Burmese people. It continued to ignore international appeals to end violations of basic human rights, including the arbitrary arrest of political opponents and the house arrest of Nobel Prize winner Daw Aung Saan Suu Kyi. It had failed to implement its commitments to the General Assembly to transfer power to the elected representatives and had failed to respond to the serious concern expressed in General Assembly resolution 46/132.

105. The European Community called on the Burmese authorities to take action to end violations of human rights in Burma, to release those unjustifiably detained and to respect the fundamental freedoms of all Burmese citizens, including national and religious minority groups. It urged them to demonstrate to the international community their willingness to cooperate

with the United Nations and to respond positively to the provisions of the General Assembly resolution. The Commission should address the human rights situation in Burma as a matter of urgency.

106. The European Community continued to follow very closely the situation in East Timor, following the violent incident which had occurred in Dili on 12 November 1991. Although the prompt response which the summary report of the National Investigation Commission elicited from the highest Indonesian authorities was encouraging, other aspects of the issue gave cause for concern. It was to be hoped, for instance, that further investigations would result in all those responsible being identified and, where appropriate, disciplined or brought to trial, and that the investigations would also produce clear information about the number killed and the fate of those still missing.

107. The involvement of the United Nations in that process, with the appointment of a personal representative of the Secretary-General to undertake a visit to Indonesia and East Timor was to be commended, as was the willingness of the Indonesian authorities to cooperate with him fully.

108. The European Community supported the endeavours by the Secretary-General of the United Nations to achieve a just, comprehensive and internationally acceptable settlement of the question of East Timor, with full respect for the legitimate interests and aspirations of the East Timorese. It also supported the initiation of a dialogue without preconditions between Portugal and Indonesia, under the auspices of the Secretary-General, as contained in the constructive Portuguese proposal.

109. As for the situation in Viet Nam, the draft constitution recently adopted gave rise to hope for improvements in the area of civil and political rights. In addition, the European Community welcomed the undertaking by the Vietnamese Government not to persecute returnees. However, there were still reasons for pursuing international efforts to secure respect for human rights in Viet Nam, where a considerable number of citizens were still in detention.

110. The continued violence in Kashmir had led to severe loss of life and a serious deterioration in the human rights situation in the region. The Governments of both India and Pakistan should refrain from any action which could further heighten tension in the area, so that favourable conditions could be created in which the people of Kashmir might enjoy their fundamental rights. The Government of India should allow international human rights and humanitarian organizations unrestricted access to Kashmir.

111. Although the human rights situation in Sri Lanka had improved, the ongoing civil strife in the northern and eastern parts of the country was disturbing, as were the continued reports of numerous killings and disappearances. Although the European Community recognized that the Sri Lankan authorities faced difficulties in coping with civil strife, it was seriously concerned that those responsible for the killings and disappearances appeared to enjoy impunity and it urged the Sri Lankan Government to make every attempt to bring them to justice. The use of violence by the LTTE was to be condemned.

112. It was to be regretted that the recommendations contained in the earlier reports of the Commission's Special Representative on the human rights situation in the Islamic Republic of Iran had not been fully implemented, particularly his view that there should be immediate action to reduce drastically the application of the death penalty. It was clear from his latest report (E/CN.4/1992/34) that the number of executions carried out during 1991 had, in fact, substantially increased. Political critics of the Goverment continued to be arrested, and despite improvements, members of the Baha'i community did not enjoy equal treatment with other citizens.

113. Although the agreement signed between the International Committee of the Red Cross (ICRC) and the Iranian Government was a positive development, it was essential that the ICRC be permitted to visit all those prisoners whose conditions it wished to examine. The fact that the Special Representative had not been able to speak to all those whom he wished to see when visiting Iran was also to be regretted. The European Community therefore supported the extension of the mandate of the Special Representative and requested him to present an interim report to the General Assembly.

114. In conclusion, it should be emphasized that the European Community's aim was always to help those striving for greater respect for human rights around the world, an aim which required effective cooperation from the international community as a whole to promote the cause of human rights.

The meeting rose at 1.05 p.m.